

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

**RECEIVED**

MAR 29 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Federal-State Joint Board )  
on Universal Service )

CC Docket Nos. 96-45 and 97-21

**COMMENTS OF THE COMMONWEALTH  
OF THE NORTHERN MARIANA ISLANDS**

The Commonwealth of the Northern Mariana Islands ("Commonwealth"), by its attorneys, respectfully submits the following comments in response to the Commission's Public Notice released on March 17, 1999 in the above captioned matter.<sup>1</sup>

**I. INTRODUCTION**

In its Public Notice, the Commission requests comments on a Report issued by the Universal Service Administrative Company ("USAC") on March 5, 1999 which discusses, inter alia, the causes of the current low number of successful applicants in the Rural Health Care Program.<sup>2</sup> One of the "policy barriers" identified in the USAC Report is the "Hawaii Problem," which has the effect of reducing funding for rural health care providers located in islands (or small states) with rate structures which prohibit differences in urban and rural rates for telecommunications services.<sup>3</sup> Like Hawaii, the Commonwealth also has relatively limited

---

<sup>1</sup> Universal Service Administrative Company Report to the FCC: Evaluation of the Rural Health Care Program, Public Notice, CC Dkt. Nos. 96-45 and 97-21, DA 99-521 (Mar. 17, 1999) ("Public Notice").

<sup>2</sup> Evaluation of the Rural Health Care Program, Universal Service Administrative Company Rural Health Care Division (Mar. 5, 1999) ("USAC Report").

<sup>3</sup> Id. at 37.

rate differences between its more populated island, Saipan and its other inhabited islands, Rota and Tinian. As such, there is currently little incentive for Commonwealth health care providers to participate in the Commission's Rural Health Care Program.

The following comments are intended to both supplement USAC's Report regarding the Hawaii Problem and request that the Commission commence a proceeding to improve access to funding for rural health care providers located in the Pacific insular areas.

## **II. THERE IS CURRENTLY LITTLE INCENTIVE FOR COMMONWEALTH HEALTH CARE PROVIDERS TO PARTICIPATE IN THE PROGRAM**

As discussed in the Commonwealth's Comments, filed in CC Dkt. 96-45 on December 19, 1996, due to its geographic isolation and low per capita income, rural health care providers located in the Commonwealth are in desperate need of funding for telecommunications services.<sup>4</sup> Despite such need, the Commission's Rural Health Care Program is not currently providing funding for telecommunications services to the Commonwealth's health care providers. Due to a policy barrier labeled by USAC as the "Hawaii Problem,"<sup>5</sup> there is little or no funding available for Commonwealth rural health care providers under the Rural Health Care Program's current rules.

Under the Commission's rules, only the difference between "urban rates" and "rural rates" within a state are supported under the Rural Health Care Program.<sup>6</sup> In its Report and Order in CC Dkt. No. 96-45, released May 8, 1997, the Commission designated the entire

---

<sup>4</sup> Comments of the Commonwealth of the Northern Mariana Islands, CC Dkt. No. 96-45 at 18-21 (Dec. 19, 1996)("Comments"), a copy of which is attached (excluding exhibits).

<sup>5</sup> USAC Report at 37.

<sup>6</sup> 47 C.F.R. § 54.609 (1998).

island of Saipan as the urban area for purposes of setting the "urban rate."<sup>7</sup> As such, only the difference between rates for services provided from Saipan, on the one hand, and Rota and Tinian on the other, are supported. Currently, there is only a marginal difference in rates for telecommunications services in the islands of Saipan, Rota and Tinian. As such, the Commonwealth's rural health care providers would not receive any meaningful support under the program's current rules.

### **III. PROCEEDINGS ADDRESSING THE LACK OF SUBSTANTIVE FUNDING UNDER THE PROGRAM SHOULD BE INITIATED**

The Commission should, at a minimum, commence a proceeding to explore how to improve access to funding for rural health care providers located in the Pacific insular areas. In its Report and Order, the Commission promised to issue a public notice to explore possible solutions to the problems of applying the rules of the Rural Health Care Program to insular areas.<sup>8</sup> Since then, almost two years have passed and, to date, no proceedings have been commenced and no funding has been received by any rural health care providers located in the Pacific insular areas. Thus, the Commission should act quickly to commence a proceeding to determine what changes are necessary to provide rural health care providers in the Pacific insular areas with meaningful funding under the Rural Health Care Program.

In any such proceeding, the Commission should further explore, among other proposals,

---

<sup>7</sup> In Re Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd. 8776, at ¶ 697 (May 8, 1997)("Report and Order"). While this was consistent with the alternative relief requested at the time by the Commonwealth in its Comments, the Commonwealth had urged preferably that a point in Hawaii or the mainland be designated as the urban area.

<sup>8</sup> Report and Order at ¶ 696.

re-designating the Commonwealth's urban area for purposes of calculating the "urban rate" as a major urban area outside of the Commonwealth, such as in Hawaii or California. If the urban area designation for the Commonwealth is thus changed, the Commonwealth's rural health care providers should become eligible for substantially greater funding, possibly removing the current barrier to participation in the program, lack of potential funding.

The Commission presently has the authority to make this designation under 254(h)(2)(A) of the Telecommunications Act of 1996 ("1996 Act"),<sup>9</sup> which states that Commission shall establish competitively neutral rules "to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all...health care providers."<sup>10</sup> Section 254(h)(2)(A) provides the Commission with separate independent authority to establish programs to provide support for telecommunications and advanced services to schools and libraries as well as health care providers.<sup>11</sup> Further, the Commission has recognized that Section 254(h)(2)(A) authorizes the adoption of special mechanisms by which to calculate support for the pacific insular areas.<sup>12</sup> Thus, the Commission has the authority under Section 254(h)(2)(A) to expand the current Rural Health Care Program rules to designate an out-of-state urban area for the Commonwealth.

---

<sup>9</sup> 47 U.S.C. 254(h)(2)(A) (1998).

<sup>10</sup> Id.

<sup>11</sup> Report and Order at ¶ 596. For example, in its Report and Order, the Commission used its authority under Section 254(h)(2) to allow for funding for internal wiring and internet access for schools and libraries under the E-rate program. Id. at ¶ 594. Further, the Commission used its authority under Section 254(h)(2) to provide for funding for toll-free access to the internet for all health care providers, regardless if located in urban or rural areas. Id. at ¶ 743.

<sup>12</sup> Id. at ¶ 692.

Improving access to funding for the Commonwealth's rural health care providers is consistent with the stated intent of Section 254(h) of the 1996 Act. Section 254(h) intended that "health care providers for rural areas...have affordable access to modern telecommunications services that will enable them to provide medical...services to all parts of the nation."<sup>13</sup> Because the Commission's current rules exclude the Commonwealth's rural health care providers from receiving meaningful funding, they do not currently have affordable access to desperately-needed modern telecommunications services.

Further, the Commission has a duty under Section 254(h)(2)(A) to develop rules which promote access to advanced services for health care providers, including those located in the Commonwealth. As explained in the Commonwealth's Comments, due to the Commonwealth's remote geographic location and low per capita income, the need for telecommunications funding for rural health care providers is significant.<sup>14</sup> The Commonwealth currently lacks the facilities, medical specialists and trained personnel to provide advanced or specialized health care.<sup>15</sup> As such, the Commonwealth heavily relies on telecommunications for purposes of diagnosis, research or coordination.<sup>16</sup>

---

<sup>13</sup> See Joint Explanatory Statement of the Committee of Conference, H.R. Rep. No. 104-458, 104th Cong., 2nd Sess. at 132 (1996).

<sup>14</sup> See Attachment at 19-21.

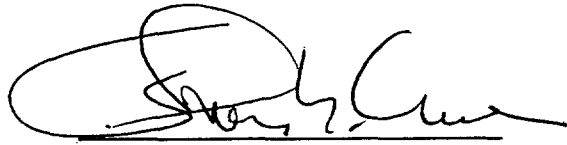
<sup>15</sup> Id. at 19.

<sup>16</sup> Id.

#### IV. CONCLUSION

As discussed above, the Commonwealth urges the Commission to initiate a proceeding or take such other action as may be appropriate to ensure that meaningful funding is provided to rural health care providers located in the Commonwealth.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas K. Crowe', written over a horizontal line.

Thomas K. Crowe  
Elizabeth Holowinski,  
LAW OFFICES OF THOMAS K. CROWE,  
P.C.  
2300 M Street, N.W.  
Suite 800  
Washington, D.C. 20037  
(202) 973-2890

COUNSEL FOR THE COMMONWEALTH  
OF THE NORTHERN MARIANA ISLANDS

March 29, 1999

## CERTIFICATE OF SERVICE

I, Melissa Sheehy, a paralegal with the Law Offices of Thomas K. Crowe, P.C., do hereby certify that on this 29th day of March, 1999, I served copies of the foregoing **COMMENTS OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS** by U.S. mail on the following:

Chairman William E. Kennard  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 8B201  
Washington, D.C. 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 8B115  
Washington, D.C. 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 8A204  
Washington, D.C. 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 8C302  
Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room A8302  
Washington, D.C. 20554

Lawrence E. Strickling  
Chief, Common Carrier Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 5C345  
Washington, D.C. 20554

Irene Flannery  
Chief, Accounting Policy Division  
Common Carrier Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 5A426  
Washington, D.C. 20554

Kent R. Nilsson  
Special Counsel and Deputy Chief  
Network Technologies Division  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M Street, N.W.  
Room 230  
Washington, D.C. 20554

Sheryl Todd  
Common Carrier Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
5th Floor  
Washington, D.C. 20554

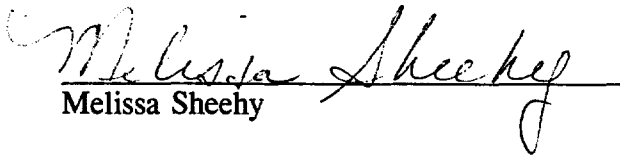
Linda P. Armstrong  
Common Carrier Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
5th Floor  
Washington, D.C. 20554

John N. Babauta  
Resident Representative to the United States,  
Commonwealth of the Northern Mariana  
Islands  
2121 R Street, N.W.  
Washington, D.C. 20008

Mr. Gordon Maxson  
GTE Service Corporation  
Director, Regulatory Affairs  
1850 M Street, N.W.  
12th Floor  
Washington, D.C. 20036

Robert F. Kelley, Jr.  
Advisor to the Governor  
Office of the Governor  
Territory of Guam  
P.O. Box 2950  
Agana, GU 96910

ITS  
1231 20th Street, N.W.  
Washington, D.C. 20036

  
Melissa Sheehy